

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL NO. 1:09CR33

UNITED STATES OF AMERICA

VS.

WILLIAM HOWARD O'NEIL, JR.

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ORDER OF DISMISSAL

THIS MATTER is before the Court on Defendant's motion to dismiss the indictment, filed June 27, 2009, and the Government's motion to dismiss the indictment without prejudice, filed July 7, 2009.

The Defendant cites the case of *United States v. Endo*, 635 F.2d 321 (4th Cir. 1980), in support of his argument that the holding in *Endo* prevents the Government from prosecuting him on the charges contained in the indictment herein. In response and in its own motion to dismiss, the Government states that while this case "presents a relatively close issue," *Endo* "is distinguishable in this case." **Government's Motion, at 2, 3.** However, the Government concedes that since the Defendant is currently serving a 210-month sentence, "the potential benefits of an additional

conviction may not justify the expenditure of resources by both the United States and this Court in light of this issue.” *Id.* at 3. The Government requests the Court grant its motion to dismiss the indictment herein without prejudice. The Defendant did not file response or otherwise object to the Government’s motion.

Finding the Government’s motion well taken, for the reasons stated therein, and the Defendant having filed no objections to the relief sought,

IT IS, THEREFORE, ORDERED that the Defendant’s motion to dismiss is **DENIED**.

IT IS FURTHER ORDERED that the Government’s motion to dismiss is **ALLOWED**, and the indictment herein is hereby **DISMISSED WITHOUT PREJUDICE**.

Signed: July 28, 2009



Lacy H. Thornburg
United States District Judge

